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## Small tobacco firms seek change in settlement

*By Bruce Schreiner*
*Associated Press*

FRANKFORT - Advocates for some small tobacco manufacturers told a House committee on Tuesday that Kentucky has been shortchanged by a national settlement in which tobacco companies make payments to states to cover smoking-related costs.

They proposed that tobacco companies pay a flat tax of about \$4 per carton on all cigarettes sold in Kentucky as a substitute for assessments under the Master Settlement Agreement in which participating tobacco companies make payments to nearly all states. The tax rate would match the assessment on manufacturers under the settlement.

The proposal is not yet in a bill but got a hearing before the House Appropriations and Revenue Committee, one day after Gov. Ernie Fletcher said in his State of the Commonwealth speech that Kentucky got "a bad deal" in the national settlement.

The proposal exposes divisions among tobacco manufacturers.

Proponents of the flat tax were tobacco manufacturers that never signed the settlement. They said the proposal is fair and would generate an extra \$130 million for the state each year. They predicted that

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tobacco manufacturers could absorb the extra costs with little, or no, impact on cigarette prices.

Rep. Rob Wilkey, D-Scottsville, said the proposal would impose double payments on tobacco manufacturers that joined the national settlement.

"What happens is participating manufacturers get hammered with the additional tax," he said.

Wilkey - general counsel of cigarette manufacturer Commonwealth Brands Inc., which joined the Master Settlement Agreement - said a flat tax could force companies to raise cigarette prices by \$3 to \$4 per carton. He also said the proposal was a "clear breach" of the settlement.

"This looks like a full-employment-for-lawyers-bill to me," he said.

He said it was a ploy by manufacturers that didn't join the agreement to gain a price advantage over competitors participating in the settlement.

"So what they want Kentucky to do is to roll the dice with this plan that's unfair and put at risk all of our MSA money," Wilkey said.

If the proposal passed, supporter Ron Tully said manufacturers could be credited for Master Settlement Agreement contributions to Kentucky.

Wilkey said cigarette companies still could face double assessments, especially those with a high percentage of Kentucky sales.

In Kentucky, tobacco companies that did not join the agreement pay about \$4 per carton into escrow accounts. Portions of the money would start to be refunded in 25 years if the states didn't sue them over health-care costs.

Tully alleged that some manufacturers that signed onto the agreement received "sweetheart deals" that exempt a portion of their sales from assessments.

He said that has shortchanged Kentucky and given some manufacturers an unfair advantage.

Supporters of the new proposal focused on disparities in doling out Master Settlement Agreement money to states.

Kentucky accounts for about 3 percent of U.S. cigarette sales but receives 1.76 percent of the billions distributed yearly under the settlement, said Tully, a vice president of National Tobacco Co., which has manufacturing operations in the state.

"Kentucky is subsidizing the larger states ... because Kentucky smokers pay more into the MSA than the

commonwealth is allocated," he said.

Kentucky is expected to receive about \$92 million in payments from the program in 2006, proponents said.

For every \$4-per-carton fee collected in Kentucky as part of the settlement, \$1.58 is returned to Kentucky and the rest is distributed to other states, Tully said. By contrast, New York receives \$12.21 for every \$4 collected for the settlement, he said.

Rep. Lonnie Napier, R-Lancaster, worried that if the flat tax on manufacturers led to higher cigarette prices, it could reduce the amount of money raised. Last year, Kentucky's cigarette tax increased from 3 cents to 30 cents per pack.

Committee chairman Harry Moberly, D-Richmond, said the panel would hear comments from opponents of the proposal at another hearing.

Publication date: 01-11-2006



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